

Senate File 2397 - Introduced

SENATE FILE 2397

BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO SSB 3076)

A BILL FOR

1 An Act relating to the financial exploitation of designated
2 eligible adults, and making an appropriation.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **502.801 Definitions.**

2 For purposes of this article, unless the context otherwise
3 requires:

4 1. "*Eligible adult*" means any of the following:

5 *a.* A person sixty-five years of age or older.

6 *b.* A dependent adult as defined in section 235B.2.

7 2. "*Financial exploitation*" means any act or omission taken
8 by a person to wrongfully and knowingly deprive an eligible
9 adult of money, assets, or property, or to obtain control over
10 or otherwise use, convert, or divert the benefits, property,
11 resources, or assets of the eligible adult by intimidation,
12 deception, coercion, fraud, extortion, or undue influence.

13 3. "*Permissible third party*" means any of the following:

14 *a.* A person the eligible adult previously designated to
15 receive the notification described in section 502.804.

16 *b.* A person otherwise permitted to receive the notification
17 described in section 502.804 by any state or federal law or any
18 rule issued by the financial industry regulatory authority.

19 4. "*Qualified individual*" means any of the following:

20 *a.* An agent who has received training pursuant to section
21 502.808.

22 *b.* An investment adviser representative who has received
23 training pursuant to section 502.808.

24 *c.* A person who has received training pursuant to
25 section 502.808 and who serves in a supervisory, compliance,
26 senior investor protection, or legal capacity for any of the
27 following:

28 (1) A broker-dealer.

29 (2) An investment adviser.

30 Sec. 2. NEW SECTION. **502.802 Notification to administrator.**

31 If a broker-dealer, investment adviser, or qualified
32 individual reasonably believes financial exploitation of
33 an eligible adult has occurred, has been attempted, or is
34 being attempted, the broker-dealer, investment adviser, or
35 qualified individual may promptly notify the administrator.

1 The administrator may adopt rules regarding the form and manner
2 of the notification under this section.

3 Sec. 3. NEW SECTION. 502.803 Notification to administrator
4 — immunity.

5 A broker-dealer, investment adviser, or qualified individual
6 who, acting reasonably and in good faith, makes a disclosure
7 of information to the administrator pursuant to this article
8 shall be immune from administrative or civil liability that
9 might otherwise arise from such disclosure or for any failure
10 to notify the eligible adult of the disclosure. This section
11 shall not abrogate or modify any existing statutory or common
12 law privileges or immunities.

13 Sec. 4. NEW SECTION. 502.804 Notification to permissible
14 third party.

15 1. If a broker-dealer, investment adviser, or qualified
16 individual reasonably believes financial exploitation of
17 an eligible adult has occurred, has been attempted, or is
18 being attempted, the broker-dealer, investment adviser, or
19 qualified individual may notify a permissible third party. The
20 administrator may adopt rules regarding the form and manner of
21 the notification under this section.

22 2. Broker-dealers, investment advisers, and qualified
23 individuals shall not notify a permissible third party the
24 broker-dealer, investment adviser, or qualified individual
25 reasonably suspects of financial exploitation or other abuse
26 of the eligible adult.

27 Sec. 5. NEW SECTION. 502.805 Notification to permissible
28 third party — immunity.

29 A broker-dealer, investment adviser, or qualified individual
30 who, acting reasonably and in good faith, complies with section
31 502.804 shall be immune from any administrative or civil
32 liability that might otherwise arise from such disclosure.

33 Sec. 6. NEW SECTION. 502.806 Disbursements or transactions
34 — delay.

35 1. If a broker-dealer, investment adviser, or qualified

1 individual reasonably believes a disbursement or transaction
2 will likely result in or contribute to the financial
3 exploitation of an eligible adult, the broker-dealer,
4 investment adviser, or qualified individual shall initiate an
5 internal review of the requested disbursement or transaction.

6 2. A broker-dealer or investment adviser may delay a
7 disbursement or transaction from an eligible adult's account or
8 an account on which an eligible adult is a beneficiary if all
9 of the following apply:

10 a. The broker-dealer, investment adviser, or qualified
11 individual reasonably believes, after initiating the internal
12 review referenced in subsection 1, that the requested
13 disbursement or transaction will likely result in or contribute
14 to the financial exploitation of an eligible adult.

15 b. Immediately, but in no event more than two business
16 days after the disbursement or transaction is delayed,
17 the broker-dealer or investment adviser provides written
18 notification of the delay and the reason for the delay to
19 all persons authorized to transact business on the account.
20 Broker-dealers, investment advisers, and qualified individuals
21 shall not notify a person authorized to transact business
22 on the account if the broker-dealer, investment adviser,
23 or qualified individual reasonably believes the person
24 has committed financial exploitation, attempted financial
25 exploitation, or other abuse of the eligible adult.

26 c. Immediately, but in no event more than two business
27 days after the disbursement or transaction is delayed, the
28 broker-dealer or investment adviser notifies the administrator
29 of the delay and provides to the administrator the reason
30 for the delay, including the results of the internal review
31 referenced in subsection 1.

32 d. The broker-dealer continues the internal review of the
33 suspected or attempted financial exploitation of the eligible
34 adult, as necessary, and provides the administrator with
35 updates upon request.

1 3. Any delay of a disbursement or transaction authorized by
2 this section will expire upon the first to occur of any of the
3 following:

4 a. A determination by the broker-dealer or investment
5 adviser that the disbursement or transaction will not result in
6 or contribute to financial exploitation of the eligible adult.

7 b. Fifteen business days after the date on which the
8 broker-dealer or investment adviser first delayed disbursement
9 of the funds or transaction, unless the administrator requests
10 the broker-dealer or investment adviser to extend the delay,
11 in which case the delay shall expire no more than twenty-five
12 business days after the date on which the broker-dealer or
13 investment adviser first delayed the disbursement of the funds
14 or the transaction.

15 4. Notwithstanding subsection 3, upon the petition of
16 the administrator, the broker-dealer or investment adviser
17 who initiated the delay pursuant to this section, or another
18 interested party, a court of competent jurisdiction may enter
19 an order terminating, extending, or modifying the delay of the
20 disbursement or transaction and may order other protective
21 relief.

22 5. The administrator may adopt rules regarding the form and
23 manner of the notifications under this section.

24 Sec. 7. NEW SECTION. **502.807 Disbursements of transactions**
25 **— delay — immunity.**

26 A broker-dealer or investment adviser who, acting reasonably
27 and in good faith, complies with section 502.806 shall be
28 immune from any administrative or civil liability that
29 might otherwise arise from such delay in a disbursement or
30 transaction.

31 Sec. 8. NEW SECTION. **502.808 Training requirements.**

32 1. A broker-dealer or investment adviser shall provide
33 to its qualified individuals training appropriate to the job
34 responsibilities of a qualified individual. The training shall
35 include all of the following:

1 *a.* Instruction on how to identify the suspected or attempted
2 exploitation of an eligible adult, including common signs
3 indicating the financial exploitation of an eligible adult,
4 and how to provide notification regarding the suspected or
5 attempted exploitation of an eligible adult.

6 *b.* Instruction regarding privacy and confidentiality
7 requirements.

8 2. A broker-dealer or investment adviser shall provide
9 the training required by this section as soon as reasonably
10 practicable, but at least within one year after the date
11 the qualified individual begins employment with or becomes
12 affiliated or associated with a broker-dealer or investment
13 adviser.

14 3. The administrator may adopt rules specifying the content
15 and method of the training required by this section.

16 Sec. 9. NEW SECTION. **502.809 Records.**

17 1. A broker-dealer or investment adviser shall provide
18 access to or copies of records that are relevant to the
19 suspected or attempted financial exploitation of an eligible
20 adult to the administrator and to law enforcement, either as
21 part of a referral to the administrator or law enforcement,
22 or upon the request of the administrator or law enforcement
23 pursuant to an investigation. The records may include
24 historical records as well as records relating to the most
25 recent transactions that may comprise financial exploitation of
26 an eligible adult.

27 2. All records made available to the administrator, the
28 department of human services, or law enforcement pursuant to
29 this section shall be considered confidential public records
30 under chapter 22 and shall not be available for examination by
31 the public pursuant to section 22.2.

32 3. Nothing in this section shall limit or otherwise impede
33 the authority of the administrator to access or examine the
34 books and records of broker-dealers or investment advisers as
35 otherwise provided by law.

1 insurance if they reasonably believe financial exploitation
2 of an eligible adult has occurred, has been attempted,
3 or is being attempted. The bill provides immunity for
4 broker-dealers, investment advisers, and qualified individuals
5 from administrative or civil liability incurred or imposed as
6 a result of this notification or as a result of any failure to
7 alert the eligible adult of the notification.

8 The bill allows broker-dealers, investment advisers, and
9 qualified individuals to notify permissible third parties
10 if they reasonably believe financial exploitation of an
11 eligible adult has occurred, has been attempted, or is
12 being attempted. The bill similarly provides immunity for
13 broker-dealers, investment advisers, and qualified individuals
14 from administrative or civil liability incurred or imposed as
15 a result of this notification.

16 The bill prohibits broker-dealers, investment advisers,
17 and qualified individuals from notifying a permissible third
18 party if the broker-dealer, investment adviser, or qualified
19 individual reasonably suspects the permissible third party of
20 financial exploitation or other abuse of the eligible adult.

21 The bill requires a broker-dealer, investment adviser,
22 or qualified individual to initiate an internal review of a
23 requested disbursement or transaction if the broker-dealer,
24 investment adviser, or qualified individual reasonably believes
25 the disbursement or transaction will likely result in or
26 contribute to the financial exploitation of an eligible adult.

27 The bill allows a broker-dealer or investment adviser
28 to delay a disbursement or transaction from an eligible
29 adult's account or an account on which an eligible adult is
30 a beneficiary if certain enumerated steps are followed. The
31 bill also prohibits broker-dealers, investment advisers, and
32 qualified individuals from notifying a person authorized
33 to transact business on the eligible adult's account or an
34 account on which an eligible adult is a beneficiary if the
35 broker-dealer, investment adviser, or qualified individual

1 reasonably believes the person has committed financial
2 exploitation or other abuse of the eligible adult.

3 The bill establishes when and under what conditions the
4 delay of the disbursement or transaction is to end. The bill
5 provides immunity for broker-dealers and investment advisers
6 from administrative or civil liability incurred or imposed as
7 a result of the delay.

8 The bill requires broker-dealers or investment advisers
9 to provide to qualified individuals training related to
10 identifying financial exploitation of eligible adults and
11 privacy and confidentiality requirements.

12 The bill also requires broker-dealers and investment
13 advisers to provide the commissioner of insurance and law
14 enforcement officers access to and copies of records relevant
15 to investigations of financial exploitation of eligible adults
16 in certain enumerated circumstances. The bill provides these
17 records are considered confidential records for purposes of
18 Code chapter 22, and are not available for examination under
19 Code section 22.2.

20 The bill requires the insurance division of the department
21 of commerce to compile and report to the legislative services
22 agency and department of management the number of notifications
23 the division receives related to the potential financial
24 exploitation of eligible adults.

25 The bill makes a contingent appropriation from the
26 department of commerce revolving fund to the division for
27 purposes of investigating complaints and notifications
28 related to financial exploitation of eligible adults. The
29 appropriation will be made when the number of notifications
30 the division reports to the legislative services agency and
31 department of management related to the potential financial
32 exploitation of eligible adults equals or exceeds 125 percent
33 of the number of notifications reported for the fiscal year
34 beginning July 1, 2020.